

EXHIBIT A

IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY, PENNSYLVANIA

MAURI B. KELLY
LACKAWANNA COUNTY

NO. 2021-cv-4954

2022 FEB 22 P 1:54

CLERK OF JUDICIAL
REC'D CIVIL DIVISION

J.V. MANUFACTURING, INC.; J.V.
MANUFACTURING, INC. t/a and d/b/a CRAM-A-
LOT
701 Butterfield Coach Road
Springdale, Arkansas 72765

Plaintiff,

v.

DEMATIC CORPORATION
507 Plymouth Avenue NE #49505
Grand Rapids, MI 49505-6029
and
756 W. Peachtree Street NW
Atlanta, GA 30308

And
DEMATIC CORP.
507 Plymouth Avenue NE #49505
Grand Rapids, MI 49505-6029
and
756 W. Peachtree Street NW
Atlanta, GA 30308

Defendant.

COMPLAINT

Plaintiff JV Manufacturing, Inc., by way of Complaint for contribution, common law indemnification and other relief deemed appropriate by the Court, alleges as follows:

1. Plaintiff JV Manufacturing, Inc is a corporation authorized to transact business within the Commonwealth of Pennsylvania and maintains a principal place of business at 701 HWY 265 Spur, Springdale, AR 72765.

2. Defendant Dematic Corporation is a corporation authorized to transact business within the Commonwealth of Pennsylvania and maintains a principal place of business at P.O. Box 1521557, Grand Rapids, Michigan, 49505.

3. Defendant Dematic North America is a corporation authorized to transact business within the Commonwealth of Pennsylvania and maintains a principal place of business at 507 Plymouth Ave. NE, Grand Rapids, Michigan, 49505.

4. Plaintiff JV Manufacturing, Inc. has been sued in the Luzerne County, Pennsylvania Court of Common Pleas at docket no. 17 CV 5907 by Michael Dunsmore (hereinafter “underlying Plaintiff Dunsmore”) with regard to alleged injuries, losses and/or damages arising out of an incident that occurred on or about December 30, 2015 at a Wal-Mart Distribution Center in Tobyhanna, Pennsylvania. See Underlying Plaintiff Dunsmore Complaint, Ex. A.

5. Underlying Plaintiff Dunsmore alleges that he sustained various injuries including, but not limited to, the amputation of his left arm as a result of his operation/use of a baling machine, identified as “Cram-A-Lot” HX 72 baler, serial # BH641-01 (hereinafter “subject baler”) manufactured by JV Manufacturing, Inc. See Exhibit “A”.

6. Plaintiff JV Manufacturing, Inc. incorporates by reference the factual averments contained in underlying Plaintiff Dunsmore’s Complaint without admitting any such facts and re-avers such allegations against Defendants Dematic Corporation and/or Dematic North America so as to provide the context and foundation for this action seeking contribution, common law, indemnity and other indicated relief against Defendants, Dematic Corporation and/or Dematic North America.

7. The subject baler was sold by Dematic Corporation and/or Dematic North America to Walk-Mart DC located at 100 Veterans Drive, Tobyhanna, PA 18466 and installed in the distribution center by Dematic Corporation and/or Dematic North America in such fashion so as

to, according to underlying tort Plaintiff Dunsmore, negligently create a dangerous and defective condition of an otherwise safe machine.

8. According to underlying tort Plaintiff Dunsmore, Defendants Dematic Corporation and/or Dematic North America installed the subject baler in an incorrect, improper and/or negligent manner by materially changing the form, layout and/or design of the subject baler from its original condition at the time of manufacture and delivery by JV Manufacturing, Inc. which conduct was a proximate cause of the injuries, losses and/or damages alleged by underlying Plaintiff Dunsmore.

COUNT I – CONTRIBUTION

9. Plaintiff JV Manufacturing, Inc. hereby repeats and incorporates all preceding allegations and paragraphs as if the same were more fully set forth at length herein.

10. The injuries, losses and/or damages sustained by underlying Plaintiff Dunsmore as alleged herein were caused by the conduct, acts and omissions of Defendants Dematic Corporation and/or Dematic North America.

11. While denying any liability to underlying Plaintiff Dunsmore for the accident and injuries alleged in the Complaint of Plaintiff Dunsmore, should liability be adjudged, Plaintiff JV Manufacturing, Inc. asserts that Defendants Dematic Corporation and/or Dematic North America, collectively or separately, are joint tortfeasors pursuant to the terms and provisions of the Pennsylvania Uniform Contribution among Joint Tortfeasors Act thereby entitling Plaintiff JV Manufacturing, Inc. to judgment over against Defendants Dematic Corporation and/or Dematic North America for contribution.

WHEREFORE, Plaintiff JV Manufacturing, Inc. in the event of an adverse verdict seeks judgment in excess of \$50,000.00 for contribution against Defendants Dematic Corporation and/or

Dematic North America together with attorneys' fees and costs of suit and demands Defendants be placed on the verdict slip at trial of 17 CV 5907.

COUNT II -INDEMNIFICATION

12. Plaintiff JV Manufacturing, Inc. hereby repeats and incorporates all preceding allegations and paragraphs as if the same were more fully set forth at length herein.

13. While denying any liability to underlying Plaintiff Dunsmore for the accident and injuries alleged herein, should liability be adjudged, Plaintiff JV Manufacturing, Inc. asserts that such liability is merely passive, secondary, technical, vicarious and imputed in that the sole and primary liability is that of Defendants Dematic Corporation and/or Dematic North America in regard their conduct, acts and omissions in delivery, set-up, and modification of the subject baler so as to create the alleged dangerous and defective condition.

14. Accordingly, Plaintiff JV Manufacturing, Inc. seeks common law indemnity from Defendants Dematic Corporation and/or Dematic North America for any and all sums for which it might be held liable to underlying Plaintiff Dunsmore as well as all costs incurred in defending the action filed by underlying Plaintiff Dunsmore as well as prosecuting this action.

WHEREFORE, Plaintiff JV Manufacturing, Inc. seeks judgment in excess of \$50,000.00 for common law indemnification against Defendants Dematic Corporation and/or Dematic North America together with attorneys' fees and costs of suit.

BUNKER & RAY

A handwritten signature in black ink, appearing to read 'Allen Bunker', written over a horizontal line.

BY:

Dated: February 16, 2022

Allen Bunker, Esquire
436 Walnut Street
Philadelphia, PA 19106
(215) 845-6165
Attorney I.D. No: 82495

ATTORNEY VERIFICATION

I, ALLEN R. BUNKER, ESQUIRE, hereby state that I am the attorney for Plaintiff, J.V. Manufacturing, Inc., in the foregoing lawsuit, and verify that the statements made in the foregoing Plaintiff's Complaint, are true and correct to the best of my knowledge, information and belief, and I understand that the statements in said Plaintiff's Complaint are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

DATE: February 16, 2022

A handwritten signature in black ink, appearing to read 'Allen R. Bunker', written over a horizontal line.

Allen R. Bunker, Esquire
Attorney for Plaintiff